

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Community Affairs Committee

BILL: Proposed Committee Substitute for CS/SB 1058

SPONSOR: Domestic Security Committee, Senators Diaz de la Portilla and Wise

SUBJECT: Emergency Management

DATE: March 10, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pardue	Skelton	DS	Fav/CS
2.	Herrin	Yeatman	CA	Pre-meeting
3.			HE	
4.			TA	
5.				
6.				

I. Summary:

This proposed committee substitute (PCS) amends various sections of the Florida Statutes with respect to the planning and operation of special needs emergency shelters in the state.

The PCS addresses emergency planning and management to enhance the safety and well-being of persons with special needs before, during, and after a disaster. The PCS assigns lead responsibility regarding special needs shelter maintenance and operation to certain state agencies, establishes the multiagency special needs shelter discharge planning team and encourages coordination of emergency services among national, state and local agencies and volunteer organizations. Specifically, the PCS:

- Assigns lead agency education and outreach responsibilities to the Department of Community Affairs;
- Expands special needs registration efforts;
- Revises the membership and role of the Special Needs Shelter Interagency Committee;
- Amplifies the Department of Health's role in establishing a more coordinated comprehensive emergency plan review of certain facilities and providers;
- Provides for procedures to address the needs of families of special needs shelter residents;
- Provides for facility and provider reimbursement when rendering services during a disaster;
- Requires the Division of Emergency Management to prepare a biennial shelter plan that estimates future needs for special needs shelters;
- Describes client abandonment during a disaster and provides for regulatory review;
- Authorizes certain entities to exceed their licensed capacity during an evacuation situation;

- Provides for an inactive license status when a licensee is unable to operate due to damage;
- Provides for notification of clients affected by a grant of inactive status; and
- Ensures nursing homes in a disaster area receive initial contact from the Agency for Health Care Administration.

This PCS substantially amends the following sections of the Florida Statutes: 252.355, 252.3568, 252.385, 381.0303, 400.492, 400.987, 400.506, 400.610, 400.934, 400.925, 400.935, and 408.831. This PCS creates section 252.357, Florida Statutes.

II. Present Situation:

The 2004 and 2005 hurricane seasons placed extreme demand on the state's ability to respond to natural disasters. Post season analysis of the state's Special Needs Shelters (SpNS) operations highlighted issues of concern such as organizational deficiencies, damage to shelter structures, power outages, demographic based changes in demand for special needs shelters, and the stress on patients, caregivers, and emergency managers.

The Governor issued Executive Order Number 04-192 on September 1, 2004 authorizing the Department of Health (department) to assume responsibility for operations of special needs shelters if specifically requested by any county Director of Emergency Management. This order, incorporated in subsequent hurricane executive orders, was prompted by, "[T]he recognition that the system was overwhelmed and that the department was in the best position, under the circumstances, to assume expedient responsibility for SpNS operations...."¹

The Department of Health, in its *2004 Hurricane Season AFTER ACTION REPORT* documents that changing demographics have resulted in increasing numbers of elderly and disabled individuals receiving in-home services. The report states, "[D]uring these storms, Florida, with its high proportion of elderly, experienced the effects of these combinations of factors like never before. Individuals, who functioned well in their homes during normal times, many with support services from home health care agencies, were unable to maintain that level of functionality during and after the storms. Storm-related disruptions to communications, transportation, power supplies, and lack of continuity of in-home support services as well as structural damage to their homes, forced many seniors out of their independent living status and into SpNS, at least temporarily. In some areas, those who had not evacuated prior to the storm found they could not safely remain in their homes after the storm due to these disruptions resulting in a 'second wave' of evacuees entering special needs shelters."²

The department's report highlights a number of issues and lessons learned including:

- Some SpNS were used with structural integrity ratings below the strength of the hurricane category faced while other SpNS sustained damage at wind speeds below their maximum rating.

¹ Florida Department of Health, *2004 Hurricane Season AFTER ACTION REPORT*, March 4, 2005, page E2.

² Id., pages E2-E3.

- County health departments were not always involved with other government entities in the selection of SpNS.
- Many eligible persons were not aware of the Special Needs Registry and many of those registered did not actually choose to shelter in SpNS.
- Many eligible persons asked to be added to the registry just prior to storm land fall and many registry lists were not updated.
- Many of the operational and shelter management issues that arose had been previously addressed in published documents yet some staff persons were not aware of the available resources highlighting a need for improved training.
- Better asset assignment was needed, including staff with current specialty skill sets and specialized equipment such as heavy patient lift devices or able-bodied staff, respiratory therapists, oxygen concentrators and other medical support equipment.
- A broad range of communications devices were needed including cell phones, satellite phones, 800 megahertz radios. These devices should be identified ahead of time and assigned to SpNS.
- Stressful shelter conditions such as lack of air conditioning and marginal food and water supplies led to rapid negative health impact on patients highlighting the need for discharge planning.
- As some shelters were damaged or destroyed by previous storms, back-up alternatives such as regional SpNS were suggested at the same time highlighting the potential to overwhelm adjacent county medical resources.

During the 2005 hurricane season, additional analysis revealed that physically impaired individuals who decided to shelter at home in multi-story buildings became “trapped” when elevators were rendered inoperable due to power outages. These individuals represent a substantial group that may also seek SpNS services in the future.

III. Effect of Proposed Changes:

Section 1 amends s. 252.355, F.S., to add the Department of Education and the Agency for Persons with Disabilities, to the list of departments and agencies responsible for providing registration information about SpNS to all people with disabilities or special needs who receive services. The PCS deletes a reference to the Department of Labor and Employment Security which no longer exists.

The Department of Community Affairs is designated as the lead agency responsible for conducting community education and outreach regarding registration of persons with special needs and general information about special needs shelters. The department is required to disseminate such educational and outreach information through the local emergency management offices. The PCS further requires the department to coordinate curriculum development and education dissemination related to SpNS with the Governor’s Americans With Disabilities Working Group and the other departments and agencies named in the section.

The PCS provides that a person with special needs shall be allowed to bring a service animal into a SpNS in compliance with the Americans with Disabilities Act. It requires electric utilities to provide their customers with notice of the availability of the registry program twice per year.

The PCS also requires that the Department of Health be provided with registration information relating to persons with special needs in order to perform the department's duties and responsibilities. It requires hospices, nurse registries, and home medical equipment providers to assist emergency management agencies by collecting registration information for persons with special needs.

Section 2 amends s. 252.3568, F.S., to provide that the Department of Agriculture and Consumer Services as the lead agency responsible for pet and animal sheltering during a disaster.

Section 3 amends s. 252.357, F.S., to require that the Agency for Health Care Administration monitor nursing homes during emergencies to determine if assistance is needed and that the agency publishes an emergency telephone number for nursing homes to use.

Section 4 amends s. 252.385, F.S., to specify that the Division of Emergency Management must include special needs shelter assessment, location, estimated need, and other information in its statewide emergency shelter plan. It also provides that the local emergency management agency shall inspect a designated facility to determine its readiness prior to activating such facility for a hurricane or disaster.

Section 5 amends s. 381.0303, F. S., relating to the operation, maintenance and closure of SpNS. The PCS:

- Requires the local Children's Medical Services offices to assume lead responsibility for locally coordinating health care providers and other interested parties in developing a plan for staffing and medical management of pediatric special needs shelters;
- Amplifies the county health department employees' requirement to staff SpNS and requires county governments to assist in the process;
- Includes Children's Medical Services along with appropriate county health departments and local emergency management agencies in jointly determining responsibility for medical supervision in SpNS;
- Designates local emergency management agencies as responsible for the closure of SpNS following an emergency or disaster;
- Declares that state employees with a pre-established disaster response role, unless they have other mandated response activities that preclude participation, may be called on to serve during disaster events commensurate with their knowledge, skills, and abilities;
- Authorizes the Secretary of Elderly Affairs to convene a multi-agency SpNS discharge planning team as necessary to assist local areas severely impacted by a natural or manmade disaster. The PCS provides that the team will be made up of at least one representative from the Departments of Elderly Affairs, Health, Children and Family Services, Veterans' Affairs, Community Affairs, and the Agencies for Health Care Administration and Persons With Disabilities;

- Deletes a “subject to availability” of funds reference and provides for hospitals and nursing homes to be able to submit invoices for reimbursement from the state for expenses incurred in sheltering special needs persons;
- Provides for reimbursement to receiving facilities for up to 90 days if the multiagency SpNs discharge planning team determines it is necessary to discharge persons with special needs to other health care facilities;
- Provides a limitation for reimbursement for services provided to a special needs client if the client was enrolled in another state-funded program such as Medicaid or another similar program that would otherwise pay for the same services;
- Allows the Secretary of Health to establish a special needs shelter interagency committee, serve or appoint a committee chair, and requires the Department to provide necessary staff and resources support to the committee;
- Revises the membership of the SpNS Interagency Committee to include the Florida Association of Aging Service Providers, AARP, and the Florida Renal Coalition, and requires the use of teleconference or video conferencing for the committee’s meetings to ensure statewide input and participation;
- Provides rule making authority to the Department of Health to adopt special needs shelter standards including staffing, transportation services, compliance with applicable service animal laws, client eligibility criteria, provision of services and support, standardized applications for services, procedures for addressing the needs of unregistered clients, procedures for addressing the needs of families of special needs clients, and any other minimum standards that may be required;
- Affirms the requirement for the submission of emergency management plans by home health agencies, nurse registries, hospice programs, and home medical equipment providers to local county health departments which specify the means the entity will use to provide the same type and quantity of services for patients that evacuate to SpNS.

Section 6 amends s. 400.492, F.S., regarding home health agencies and the provision of services during an emergency. The PCS requires a home health agency to include in its comprehensive emergency management plan the means by which the agency will continue to provide staff to perform the same type and quantity of services to patients who evacuate to a SpNS. It provides that home health agencies may establish links to local emergency operations centers. The presentation of home health care or hospice clients to a special needs shelter without a good faith effort by the agency to provide services in the shelter setting will constitute client abandonment and will result in regulatory review.

Section 7 amends s. 400.497, F.S., to establish county health department procedures regarding the review of home health agencies’ comprehensive emergency plans and provides for notification of plan approval or deficiency. The PCS authorizes the Agency for Health Care Administration to impose a fine under certain circumstances.

Section 8 amends s. 400.506(16), F.S., regarding nurse registries and the provision of services during an emergency. It provides that nurse registries may establish links to local emergency operations centers. Also, the PCS establishes county health department procedures regarding the review of nurse registries' comprehensive emergency plans and provides for notification of plan approval or deficiency. The PCS authorizes the Agency for Health Care Administration to impose a fine under certain circumstances.

Section 9 amends s. 400.610, F.S., regarding hospice facilities and the provision of services during an emergency. It provides that hospice facilities may establish links to local emergency operations centers. Also, the PCS establishes county health department procedures regarding the review of hospice facilities' comprehensive emergency plans and provides for notification of plan approval or deficiency. The PCS authorizes the Agency for Health Care Administration to impose a fine under certain circumstances.

Section 10 amends s. 400.925, F.S., to provide a definition for "life-supporting or life-sustaining equipment."

Section 11 amends s. 400.934, F.S., regarding home medical equipment providers and the provision of services during an emergency. It provides that home medical equipment providers may establish links to local emergency operations centers. Also, the PCS establishes county health department procedures regarding the review of home medical equipment providers' comprehensive emergency plans and provides for notification of plan approval or deficiency. The PCS authorizes the Agency for Health Care Administration to impose a fine under certain circumstances.

Section 12 amends s. 400.935, F.S., to require the Agency for Health Care Administration to adopt rules relating to the preparation of the comprehensive emergency management plan and minimum criteria, including the maintenance of patient equipment and supply lists for that can accompany patients who are transported from their homes.

Section 13 amends s. 408.831, F. S., allowing entities subject to this section, and acting in accordance with an emergency plan and an authorized evacuation order, to exceed their licensed capacity to act as a receiving facility. While in an overcapacity status, each provider must furnish or arrange for appropriate care. Overcapacity status in excess of 15 days must be approved by the Agency for Health Care Administration based on satisfactory justification and need as provided by the receiving and sending facility.

Under this section, an inactive license may be issued to a licensee located in a declared disaster area if the provider's operation suffered damage during the state of emergency, is currently licensed, does not have a provisional license, and is temporarily unable to provide service but is reasonably expected to resume operations within 12 months.

An inactive license may be issued for a period of up to 12 months and may be renewed for up to an additional 6 months upon demonstrating progress towards reopening. The PCS provides requirements for submission of a request for an inactive license or extension of a previously approved inactive period to the Agency for Health Care Administration.

The PCS provides for notification to clients of any necessary discharge or transfer as a result of granting inactive provider status.

The PCS also provides for a beginning date for the inactive licensure period and procedures for the reactivation of an inactive license.

Section 14 provides for an effective date of July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Counties are already involved in emergency management activities and, therefore, the PCS does not appear to impose significant new responsibilities upon them. The fiscal impact, if any, on counties is insignificant. The PCS does not appear to require a municipality to expend funds or to take actions requiring the expenditure of funds.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Disaster response, particularly the set-up and operation of special needs shelters, places considerable demand on private sector health care and health care support systems. Cost of service delivery is situation dependent, however, this PCS addresses rule making for reimbursement of physicians and hospitals providing special needs shelter services.

C. Government Sector Impact:

The Department of Health estimates the additional responsibilities associated with the increase in comprehensive emergency management plan reviews to require \$2.7M in initial funding. The Department of Community Affairs, the Department of Elderly Affairs, and the Agency for Health Care Administration, should be able to carry out the provision of the PCS within existing resources. Certain provisions of the PCS are conditional upon funding.

This PCS also requires the Department of Health to promulgate certain rules.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

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